

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 300 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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SHAIKH MUNIR SHAIKH SAYBA

Versus

STATE OF GUJARAT

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Appearance:

MR KR RAVAL for Petitioner

Mr.S.T.Mehta, LAPP for Respondent No. 1

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 09/07/97

ORAL JUDGEMENT

Apart from the fact that the convict appellant of Sessions Case No.59 of 1993 has undergone the sentence, even if the matter was to be examined on merits, the net other result to the accused-appellant can be worked out inspite of the best efforts put in by the learned advocate Mr.Rawal.

2. On receipt of the information that the accused in company of two others is dealing in Narcotics (Ganja), raid was conducted on 1-12-1992, which resulted into recovery of 11 kgs. of Ganja with cash amount of Rs.2,100/- said to be the sale proceeds and finally, the case came to be tried and the present accused came to be convicted for offence under Sec.20-b(1) of Narcotic and Psychotropic Substances Act (for short "the said Act") and sentenced to undergo RI for 4 years and to pay a fine of Rs.20,000/-, in default, S.I. for six months. This was the order passed by the learned Sessions Judge on 22-2-1994.

3. All possible defences were taken before the trial Court and the defence was mainly of denial. Panchas have withstood the test of cross examination and so have the Investigating Officers. The usual technical defence of Sec.42 has failed because station diary Exh.28 is on record. Section 50 was also pressed into service but to no avail as search was carried out in presence of a Gazetted Officer. In the alternative, submission was made that the amount of Rs.2,100/- recovered from the accused be returned to him. However, in consonance with the defence of denial when specific question was put about the sum of Rs.2100/- to the accused-appellant, he had indicated that he had nothing to do with it. Under the circumstances, even if he were acquitted, there is no question of returning the money to him.

4. All told therefore, there is no merit in the appeal and it is dismissed.

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